THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT APPEAL NO.1085 OF 2006

13th November 2006

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 21.08.2006 in W.P.NO.14492 OF 2006 on the file of the High Court.)

Between:

The President, APSRTC National Mazdoor Union, Chilakaluripet, rep.by Sri G.Sambasiva Rao, S/o.Yellamanda, 55 years, R/o.Chilakaluripet, Guntur District.

...APPELLANT

AND

1. The Depot Manager, APSRTC, Vinukonda Depot, Vinukonda, Guntur District.

And one other.

...RESPONDENTS

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT APPEAL NO.1085 of 2006

JUDGMENT: (Per the Hon'ble Mr Justice Ramesh Ranganathan)

Aggrieved by the order dated 14.09.2005 in I.D.No.205 of 2001 on the file of the Labour Court, Guntur, the Depot Manager, APSRTC, Vinokonda Depot filed W.P.No.14492 of 2006.

In the award passed in I.D.No.205 of 2001 dated 14.09.2005, the Labour Court, while setting aside the order of punishment of deferment of annual grade increments for a period of two years with cumulative effect, directed the increments to be restored to the claimant from the date of reference i.e. from 04.07.2001 and the arrears of pay to be paid to the claimant within two months and that the claimant is not entitled to monetary benefit from 15.01.1997 to 04.07.2001.

The charges levelled against the appellant were that, on scrutiny of SR, it was found that the claimant issued fourteen tickets by collecting Rs.100/- (Rupees one hundred only) instead of Rs.99/- (Rupees ninety nine only), that he collected Rs.10/- (Rupees ten only)

from a batch of two passengers over and above the bus fare stating that it was reservation charge, that the claimant failed to return Re.1/- (Rupee one only) towards change to a batch of two passengers who travelled from Macherla to Vinukonda, that he had failed to remit the same along with the bus cash and that he allowed luggage inside the bus to a height of two feet even before placing the vehicle on the platform and caused inconvenience to the passengers.

The Labour Court, on examining the evidence adduced on behalf of the workman, noted that he had admitted the first charge that he issued tickets worth Rs.100/- (Rupees one hundred only). The Labour Court held that the claimant did not deny that he had collected Rs.10/- (Rupees ten only) from a batch of two passengers on the plea of reservation charge, but had stated that he had to refund Re.1/- (Rupees one only) to a batch of two passengers, which they did not claim at the time of alighting the bus and had retained that Re.1/- (Rupee one only) with him and that he had allowed the luggage inside the bus before placing the vehicle on the platform. The Tribunal also held that the punishment of deferment of two increments with cumulative effect was imposed without conducting domestic enquiry

and it was not proper and answered the reference accordingly.

Before the learned Single Judge, the APSRTC challenged the award. The learned Single Judge, however, relying on the judgment of the Apex Court in ***Kulwanth Singh Gill v. State of Punjab***[1] substituted the punishment imposed by the employer to that of stoppage of annual increment for a period of two years without cumulative effect.

Before us, Sri A.K.Jayaprakash Rao, learned counsel rightly submits that ***Kulwanth Singh Gill***'s case (1 supra) is not a case against the award of the Labour Court. To that extent, the learned counsel is justified in contending that the punishment awarded by the Tribunal could not have been substituted by this Court in proceedings under Article 226 of the Constitution of India. On this ground, the order of the learned Single Judge is required to be set aside.

Sri R.Manmadha Reddy, learned Standing Counsel for the APSRTC, would submit that the learned Single Judge ought to have set aside the award passed by the Labour Court itself inasmuch as it is settled law that in such cases of corruption, a lenient view could not be taken by Labour Courts/Tribunals. Learned Standing Counsel would

submit that the Apex Court has held that even for a charge of corruption, involving of Re.1/- (Rupee one only), Labour Court/Tribunal could not interfere with the punishment imposed, in exercise of its jurisdiction under Section 11-A of the Industrial Disputes Act, 1947.

Sri A.K.Jayaprakash Rao, learned counsel for the workman, however, points out that the punishment imposed by the APSRTC was without conducting an enquiry and while the employee had not challenged the award of the Labour Court, the punishment imposed on him was, nonetheless, required to be set aside on the ground that no enquiry was conducted. According to the learned counsel, as the workman was satisfied with the punishment imposed by the Labour Court, he had not chosen to challenge the said proceedings.

These are all matters, which have not been examined by the learned Single Judge. While setting aside the order we deem it proper to remit the matter back to the Learned Single Judge for fresh adjudication in accordance with law.

The Writ Appeal is accordingly allowed and the matter is remanded to the learned Single Judge for hearing afresh on merits. No costs.

-

(B.PRAKASH RAO, J)

(RAMESH RANGANATHAN, J)

13th November 2006
RRB

-

[1] 1991 Supp (1) SCC 504